

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TEXARKANA DIVISION

ALEJANDRO HERNANDEZ, #696965	§	
VS.	§	CIVIL ACTION NO. 5:04cv242
DIRECTOR, TDCJ-CID	§	

ORDER ADOPTING REPORT AND RECOMMENDATION

The Court referred the above-entitled and numbered civil action to United States Magistrate Judge Caroline M. Craven. The Magistrate Judge presented for consideration the Magistrate Judge's Report, containing proposed findings of fact and recommendations for disposition of this case.

Petitioner filed objections to the Report. This Court made a *de novo* review of Petitioner's objections and determined that they lack merit. Petitioner's objections reiterate the issues raised in his petition and also assert that the Service Investigation Worksheet does not show that he knew on which portion of his letter the disciplinary charges were based. The Service Investigation Worksheet does not clearly show that he knew on which portion of his letter the disciplinary charges were based; however, Petitioner's contention is that if he had known the specific portion on which the charges were based, he could have prepared a better defense. Petitioner does not, however, explain what that defense would have been. Petitioner only asserts that his defense was to show that the portion was taken out of context. That is the defense Petitioner presented at the hearing, and Petitioner has not shown that he was prejudiced by lack of notice of the exact portion of the letter on which the charges were based.

This Court finds that the Magistrate Judge's findings and conclusions are correct, and

adopts them as the Court's findings and conclusions. The Court therefore

ORDERS, ADJUDGES, and DECREES that this action is **DISMISSED WITH PREJUDICE**;

ORDERS that Respondent's motion to extend time to Respond (dkt#7) is **GRANTED**;
and

ORDERS that all motions not previously ruled on are denied.

SIGNED this 26th day of September, 2005.

A handwritten signature in black ink, appearing to read "David Folsom", written over a horizontal line.

DAVID FOLSOM
UNITED STATES DISTRICT JUDGE